

**CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, DECEMBER 13, 2005**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, December 13, 2005, commencing at 7:01 a.m.

A. ROLL CALL

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. TOPIC(S)

NOTE: Items below were heard out of order as listed.

B-2 "Review of the City of Stockton's proposed General Plan Land Use Element"

Community Development Director Hatch reviewed Lodi's and Stockton's General Plan map and sphere of influence. He pointed out that from a long term perspective the only direction for Stockton to grow is north. Stockton's General Plan seems to acknowledge Lodi's proposed greenbelt/separator along the Highway 99 corridor; however, it appears not to factor in the White Slough area of influence because it is considered to be in the County. Mr. Hatch recommended that when the update to Lodi's General Plan is conducted, that the study area include Highway 12 west to Interstate 5, noting that this intersection serves as the gateway to Lodi and its wineries.

In reply to Mayor Pro Tempore Johnson, Mr. Hatch stated that if Lodi were to provide sewer service to Flag City it would strengthen its position that the area bears relation to Lodi and should be included in its General Plan study area.

In response to Council Member Hansen, City Attorney Schwabauer stated he had been informed that at a 2x2x2 meeting Jim Glaser, Stockton Community Development Director, had indicated that he interpreted the sphere of influence agreement to include a 500 foot buffer that began at Lodi's White Slough Plant, not from the southern boundary of the property. Subsequent to hearing this, Mr. Schwabauer sent a letter to the Stockton City Attorney's Office who called in response and expressed agreement that the buffer begins at the southern boundary of the property. Mr. Schwabauer clarified that the buffer is for residential construction. With Stockton's "village" concept there will be commercial and/or industrial construction, which could be built in the northernmost area of Stockton's sphere in relation to the White Slough property.

City Manager King stated that staff would probably request that Stockton reflect the agreed upon buffer in their General Plan. He warned that there could be potential opposition from Stockton to the proposed Resource 500 power plant project and the White Slough property in general in terms of odor, lights, etc.

In reply to Mayor Hitchcock, Mr. Schwabauer reported that the Local Agency Formation Commission (LAFCO) denied Lodi's request to expand its area of influence to include property south of White Slough. LAFCO stated that Lodi would have to buy the property and then seek to increase its sphere. He stated that, in part, the decision was due to it not being contiguous with Lodi's city limits; however, he believed the primary reason was that LAFCO felt Lodi was trying to drive down prices so it could buy the property at a discount.

Mayor Hitchcock asked whether more property should be purchased for future needs of the White Slough Plant and felt that a decision should be made quickly while options are still available.

Public Works Director Prima reported that an evaluation is currently being done on groundwater impacts at the White Slough facility. One of the outcomes of the sphere study was to develop a concept plan that called for 100% reuse of the water through irrigation of landscaping and other non-potable uses. If that were done, the amount of land needed would be minimal. If treated effluent were reused, the only land application would be for industrial cannery water and bio solids. Mr. Prima noted that the land north of the White Slough facility between the City's property and Highway 12 is also a suitable site for expansion. In addition, land east of Thornton Road has some potential.

B-1 "Discussion on use and value of development agreements"

City Attorney Schwabauer explained that development agreements were created in response to California Supreme Court case *Avco Community Developers, Inc. v. South Coast Regional Commission* (1976). The court held that cities can raise development impact fees or change their development standards at any time up until the developer has: 1) received its building permit and completed all discretionary permits necessary to begin construction, and 2) expends money toward construction. Mr. Schwabauer stated that these two actions, under existing standards, provide vested rights for construction. Subsequent to the *Avco* case developers asked for relief in the form of legislation and development agreements were created as another way to establish vested rights. Due to two cases, i.e., 1) *Nolan v. California Coastal Commission* (1987), and 2) *Dolan v. City of Tigard* (1994), the law now states that when a city exacts a condition as a requirement for development it must be both temporally related and proportional to the impact. Mr. Schwabauer explained that with development agreements the City can ask for whatever it wants in exchange for locking in the development standards and fees. The City's risk is that its expenses increase more than the value it was able to extract from the development agreement, between the time the fees were locked in and construction begins. Lodi's 2004 impact fee adjustment allows developers to (in some cases) lock their fees in earlier than the timeline required by the *Avco* case. He explained that a development agreement is a legislative act, and once the legislative act is taken, it locks in the 30 day statute of limitations for challenging those portions of the project which are approved. Development agreements lock in the right to develop within the terms that are internal to the agreement and can reserve subsequent discretionary approvals. Development agreements are considered first by the Planning Commission and then heard by the City Council at a public hearing. He recommended that at the December 21 City Council meeting Resolution 2004-238 be amended to provide that the fee increases established in the resolution are *not* locked in until the latest date allowed by California law.

In response to questions posed by Council Member Hansen, Mr. Schwabauer reported that Frontier Community Builders has not made any filings in advance of the fees that are currently in place, so its fees are not locked in. He stated that development agreements can dictate density and can advance creative projects that are not within the traditional parameters of the City's General Plan.

Mayor Hitchcock asked whether a development agreement could have the effect of locking in all remaining growth allocations, to which Mr. Schwabauer stated that it could if the City wished to negotiate it.

In reply to Council Member Hansen, Community Development Director Hatch explained that city limit signs are informational and have no legal bearing.

Mayor Pro Tempore Johnson and Council Members Hansen and Mounce voiced support for placing Lodi's city limit signs as far out as possible in an effort to protect the City's interest in its sphere of influence areas.

PUBLIC COMMENTS:

- Jeffery Kirst recalled that the original 2% growth initiative was struck down by the appellate court and Council later enacted an ordinance, which it has the ability to amend.

Mr. Schwabauer noted that the 2% growth limit is also incorporated in the City's General Plan, which makes it more difficult to change.

- Pat Patrick, President of the Chamber of Commerce, urged that the City's General Plan development be driven by the economic buoyancy of Lodi, rather than population growth. An agricultural preserve would relate directly to an economic benefit that Lodi would profit from. Mr. Patrick stated that the Executive Director of LAFCO indicated that a plan of Lodi's that was expanded and incorporated an agricultural preserve concept around the current urban area would be acceptable because such a plan serves different parties of shared economic interest.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 8:23 a.m.

ATTEST:

Susan J. Blackston
City Clerk